IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

LETTERS PATENT APPEAL NO.103 OF 2006
IN
REVIEW PETITION NO.53 OF 2006
IN
WRIT PETITION NO.6115 OF 2003

Shri Tushar Hasmukhbhai Shah .. Appellant
V/s.
The State of Maharashtra and others ..Respondents

Mr.R.V.Bansode for the appellant.

Mr.R.M.Patne, Assistant Government Pleader for the respondent No.1.

CORAM : R.M. LODHA &
A.S.BAGGA, JJ.

DATED : 20TH JUNE, 2006.

P.C.

At the outset, Mr.R.V.Bansode, advocate for the petitioner prayed for adjournment. He submitted that he has received a telegram from the petitioner asking him to seek adjournment in the matter.

2. We are unable to accede to the request of the advocate for the petitioner for adjournment. On 6th June, 2006, Mr.R.V.Bansode, advocate told us that the appellant desired to engage some senior advocate to argue the appeal on his behalf. At his request, we adjourned the matter for two weeks. Now today again, the advocate for the petitioner seeks adjournment.

Since we find no justifiable ground to adjourn the matter, we decline the prayer for adjournment.

3. Then Mr.R.V.Bansode, advocate argued the matter. He submitted that on 12th December, 2005 when the writ petition came up for admission, he pointed out to the court that he had no further instructions in the matter since 2004 and to the telegram sent by him on 9.12.2005 to the petitioner at Ahmedabad, he received information on his cell phone that due to ill-health, the petitioner was unable to provide further instructions in the matter and in this backdrop, he sought a week's time from the court but the learned Single Judge dismissed the writ petition recording that the advocate states that he has no instructions in the matter and does not press the petition. The advocate submitted that since the order dated 12th October, 2005 overlooked the request for adjournment made by him and recorded that the advocate for the petitioner has no instructions, the review petition was filed but the said review petition has also been wrongly dismissed.

4. Having heard the advocate for the appellant, we are of the view that the impugned order does not call for any interference. The litigant does not have a right of adjournment. The proceedings reveal that prior to 12.12.2005, the writ petition came up for admission before the learned Single Judge on 9.12.2005. On that day, the advocate for the petitioner sought time. His request was acceded to and the matter was adjourned to 12.12.2005. Admittedly, on 12.12.2005, the advocate for the

petitioner stated before the court that he has no further instructions in the matter. It is also admitted by him that in response to the telegram sent on 9.12.2005 to the petitioner at Ahmedabad, he received the message from the petitioner on his cell phone that the petitioner was unable to give further instructions due to his ill-health. This clearly reveals that the petitioner (appellant herein) was intent on seeking the adjournment on one ground or the other. When the advocate for the petitioner informed the court that he has no further instructions in the matter, if the learned Single Judge recorded that the advocate for the petitioner has no instructions in the matter and dismissed the writ petition accordingly, can it be said that the order suffers from error. Surely not. As there was no mistake apparent on the face of the record in the order dated 12th December, 2005, the learned Single Judge cannot be said to have erred in dismissing the review petition.

5. That the appellant is intent on seeking adjournment was seen by us as well. On 6th June, 2006, when the appeal was posted before us for admission, the advocate for the appellant sought time on the ground that the appellant desired to engage some senior advocate. We acceded to his request and adjourned the matter for two weeks. The prayer for adjournment is repeated today as well by the advocate for the appellant on the ground that telegram has been received by him from the appellant to seek adjournment. To a litigant who files the proceedings and then keep on asking the adjournment, we are afraid, no indulgence can

be shown.

6. Letters Patent Appeal does not deserve to be admitted and is, accordingly, dismissed.

(R.M.LODHA, J.)

(A.S.BAGGA, J.)